

FIRST AMENDED

LETTER OF INTENT

and

IMPACT ANALYSIS

and

Other Material Required by
City of Johns Creek Zoning Ordinance
for the
Rezoning Application

of

TOLL BROS., INC

for

± 204.1 Acres of Land
Commonly known as 10505, 10555, & 10655 Embry Farm Road
PIN: 11 127000530244, 11 127000540250, 11 127004760219,
11 131000540138 & 11 127004790133
Fulton County, Georgia

From AG-1 to CUP

Submitted for Applicant by:

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RZ-24-0010
Planning & Zoning

I. INTRODUCTION

This application envisions the development of a \pm 204.10-acre assemblage known as Embry Farms, located at 10505, 10555 and 10655 Embry Farm Road (11 127000530244, 11 127000540250, 11 127004760219, 11 131000540138 & 11 127004790133 [the “Subject Property”]). Embry Farms currently sits as a vacant recreational/hobby farm with large areas of older pastureland and established forest adjoining the Chattahoochee River. While the property harkens back to Johns Creek’s agricultural past, its agricultural zoning designation is inconsistent with the intensity and density of surrounding residential developments. This development proposal seeks to thread between the desire to preserve the pastoral nature of the Subject Property while acknowledging the suburban character of the surrounding community and other developments. Rather than proposing a clear-cut, traditional neighborhood that partitions the \pm 204.10-acre parcel into private lots, this proposed community preserves pasture and natural areas. As detailed below, the community also offers critical extensions of public trails and internal green spaces. This is accomplished while preserving one of the City’s premier residential communities, the Shakerag community, with high-end residential products from an established and highly-regarded residential homebuilder.

The Subject Property is currently zoned AG-1 and is partially located within the Chattahoochee River Corridor. The Application seeks a rezoning to the CUP district to allow for a 200-home community, emphasizing unique and crafted architecture to develop a curated community consistent with the high standard of residential development in the area. Importantly, the development recognizes the natural assets surrounding it and the role that environment has in the character of surrounding communities. The development has been designed to emphasize open space and will have multiple connections to public trails and parks in the area. Approximately 98 acres will be preserved for open spaces, including expansions of the Chattahoochee River Trail

and other trail improvements that will provide connectivity between Cauley Creek Park and Shakerag Park.

Homes in the community will emphasize quality architectural styling and variety. The styling features elegant modern-farmhouse homes, which incorporate natural textures and soft color palettes to better integrate within the natural environment. All lots will be developed as 100' wide lots with side entry garages, with the exception of eight lots on the west side of the entry drive. All eight of those lots will be a minimum of 1 acre in size. The applicant expects that the price points for all homes will start at between \$1.5 million and \$2 million.

II. ZONING IMPACT ANALYSIS

A. REZONING STANDARDS

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

Yes. The development results in a net density of 0.98 units per acre, which is consistent with or less than the densities of surrounding communities. While greenspace is included within these density calculations, the development was intentionally designed to aggregate greenspaces in areas with more significant natural features which are emblematic of Embury Farms, such as the large open field bordering the Chattahoochee River. The result is greater open space as opposed to larger privately held lots without conservation provisions.

The lots proposed on this development are not significantly smaller than those developed in similar Shakerag Community neighborhoods, such as Brookmere at Johns Creek and Bellemont Farms neighborhoods, each having numerous lots of approximately one-quarter acre. Thus, the use and density of development is consistent with surrounding neighborhoods.

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2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?

No. The proposal envisions a community that is consistent in housing size, pricing and quality with surrounding communities. The housing product envisioned within this development will be developed to the highest standards, with the intended market to be established professionals and executives looking to purchase homes within an amenitized and bespoke community. These low-density and quality housing units are consistent with surrounding uses and will not impact the use of adjacent properties. Further, buffering, landscaping and other design elements will reduce the extent to which the development impacts surrounding property owners.

3. Does the property to be rezoned have a reasonable economic use as currently zoned?

No. The property has no reasonable economic use under its existing agricultural zoning. Surrounding developments have been permitted for similar residential uses with similar or greater densities and there is no feasible market for an agricultural use of this property.

4. Will the zoning proposal result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

No. The development team has commissioned a traffic study to identify existing traffic capacities and to analyze impacts that additional residential units may have on the surrounding streets. The development team is committed to working with the City on providing reasonable improvements to existing infrastructure, including improvements to critical intersections such the traffic circle proposed in the site plan. The Applicant's intent is to ensure that traffic impacts are minimized with improvements where possible.

The development's impact on schools is expected to be within existing capacities. Students living within the community are expected to attend Shakerag Elementary, River Trail Middle and Northview High School, all of which have capacity. Additionally, the area features numerous

nearby private schools, such as Woodward Academy, that may service families within the development.

5. Is the zoning proposal in conformity with the policies and intent of the land use plan?

Yes. The Subject Property is located within the Shakerag Community Character Area in the Comprehensive Plan. Shakerag is characterized by conservation of natural areas and a “pastoral” feel, with single-family communities integrated within surrounding natural features (Comp. Plan p. 136). Single family residences make up the largest land-use category within the community, comprising 58.6% of the total land area, as opposed to 18.6% reserved for recreational uses¹ (Comp. Plan p. 138).

The City’s vision for future development is reflected in the proposed community here. The Comprehensive Plan envisions that the area “will remain a premier residential community by maintaining its rural nature and developing a new recreational trail along the Chattahoochee River” (Comp. Plan p. 140). The Subject Property is specifically recognized in the Comprehensive Plan as being a property—indeed, the largest property in the community—identified for development and residential build-out (Comp. Plan p. 142).

The proposed development here contemplates a net density consistent with the Comprehensive Plan’s call for one unit per acre. The density is consistent with low-intensity development and preserves existing pastureland. Similarly, the quality of development and the provisions for conserved open space will ensure that Shakerag remains a premier residential community that pays homage to the area’s rural history. Moreover, this is accomplished while expanding public amenities such as trails. The development will contribute large sections of

¹ This percentage includes properties zoned agricultural, including the Subject Property.

connectivity along the Chattahoochee River and connect Cauley Creek Park to other large sections of trail in Johns Creek.

6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the zoning proposal?

Yes. Recent development trends in Johns Creek and across Metro-Atlanta have tended toward high-end, conservation style development, with greater amenities and civic space. As opposed to traditional larger lot developments, these smaller lot communities offer greater walkability and connectivity. With the construction of Rogers Bridge and the expansion of Cauley Creek Park, opportunities for walkability and recreation are leveraged by this development's expansion of internal private and public trails. Critically, this is accomplished without overburdening the natural assets of the Subject Property. Large areas of wooded land and pastureland are preserved and incorporated within the mix of private development and publicly accessible trails.

7. Does the zoning proposal permit a use that can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek?

No. The envisioned community utilizes a conservation style development to maximize greenspace and protect environmentally sensitive areas, such as the Chattahoochee River and existing perennial streams. The attached Environmental Site Analysis details environmentally sensitive areas and describes the development accommodations designed to address and protect those areas.

**III. NOTICE OF CONSTITUTIONAL CHALLENGE TO
UNDERLYING ZONING AND PRESERVATION OF CONSTITUTIONAL RIGHTS.**

The Applicant respectfully submits that the current zoning classification of the Property and, any proposed intervening district, is unconstitutional and that rules relative to the Property owner's right to use the Property established in the City of Johns Creek Zoning Ordinance, to the

extent they prohibit the requested use, constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow the requested use would constitute a taking of private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The Applicant respectfully submits that the City Council's failure to approve the requested rezoning would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Subject Property's owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

A refusal to allow the development in question would be invalid inasmuch as it would be denied pursuant to an ordinance which is not in compliance with the Zoning Procedures Law, O.C.G.A. § 36-66-1 *et seq.*, due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

Opponents to this request, if any, lack standing; have failed to exhaust administrative remedies; and have waived their rights to appeal by failing to assert legal and constitutional objections.

IV. CONCLUSION

For the reasons discussed above, the Subject Property should be rezoned to CUP from AG-1 to permit the contemplated development. The development proposal provides a unique opportunity for quality residential development and the preservation of open spaces.

This 21st day of February, 2025.

Respectfully submitted,



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